

# ShawPittman LLP

*A Limited Liability Partnership Including Professional Corporations*

GLENN S. RICHARDS  
(202) 663-8215  
glenn.richards@shawpittman.com

February 12, 2003

## **EX PARTE**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: Application by Verizon Maryland, Verizon Washington, DC and  
Verizon West Virginia for Authorization to Provide In-Region,  
InterLATA Services in the States of Maryland, Washington, DC and  
West Virginia  
WC Docket No. 02-384**

Dear Ms. Dortch:

On February 4, 2003 Verizon filed an ex parte purporting to reconcile the federal resale requirement with Verizon-Maryland's continuing refusal to resell its retail directory assistance ("DA") service. The next day, February 5, 2003, Verizon met with staff by telephone to discuss its resale of DA. On February 11, 2003, Verizon filed another ex parte containing supplemental responses and information, apparently in response to staff request. The National ALEC Association/Prepaid Communications Association ("NALA/PCA"), which raised the resale DA issue in its January 9, 2003 opposition to the above-referenced application, files this ex parte in response to Verizon's February 4 and 11 submissions. NALA/PCA is prepared to meet with staff to discuss this matter.

In its comments opposing the above-referenced application, NALA/PCA demonstrated that because Verizon-Maryland ("Verizon") refused to resell its retail DA service, Verizon was noncompliant with its federal resale duties and thus failed to satisfy Checklist Item Nos. 7 and 14. *See* NALA-PCA Comments (January 9, 2003). NALA/PCA urged the Commission to decline to grant Verizon the requested Section 271 relief.

As explained herein, Verizon relies upon historical distortions and unsubstantiated assertions to support the remarkable argument that its refusal to resell its retail DA service is consistent with Sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996 (the "1996 Act"). The Commission should reject Verizon's argument and adhere instead to the unambiguous statutory directives of Sections 251 et seq. and its own orders and rules. It should

find that Verizon's resale DA practices violate Sections 251(c)(4) and 252(d)(3) and that Verizon therefore has failed to satisfy Item Nos. 7 and 14 of the Competitive Checklist.

*Verizon engages in revisionist history*

NALA/PCA agrees with Verizon that in Case No. 8731 the Maryland Public Service Commission ("MPSC") established a single resale discount of 19.87 percent applicable to all resellers. Further, NALA/PCA agrees that as part of its final decision in Case No. 8731 the MPSC directed Verizon to develop and file a resale DA tariff. There is absolutely no record support, however, for Verizon's assertions that the MPSC's decision in Case No. 8731 to adopt the 19.87 percent discount somehow justifies the unlawful tariff that Verizon proposed ten months later.<sup>1</sup>

Verizon disingenuously implies that the MPSC addressed both items together, in one decision. *See* Verizon 2/4/03 Ex Parte at 2 (using the singular term "decision" when discussing "[t]he Maryland PSC's decision to adopt a single wholesale discount and not to permit a free call allowance for resellers."). In fact, the 19.87 percent discount was adopted in November 1996 as part of the disposition of a contested case proceeding; issues relating to the resale DA tariff were addressed and decided in October 1997 as part of an undocketed tariff review. *See* Order No. 73010, Case No. 8731 (November 8, 1996) and Letter of Daniel P. Gahagan, MPSC Executive Secretary (October 24, 1997).<sup>2</sup>

A review of Order No. 73010 rebuts Verizon's unsubstantiated claim that the MPSC "chose to provide the wholesale discount for directory assistance calls in the form of a larger wholesale discount that applies across the board for *all* resellers." Verizon 2/4/03 Ex Parte at 3 (emphasis in original). In fact, Order No. 73010 is silent with respect to the resale DA rate or call allowance; these issues are neither identified nor discussed in Section 12 of the Order,

---

<sup>1</sup> Significantly, Verizon has not offered this explanation previously. As recently as November 18, 2002, Verizon argued only that a wholesale discount is inappropriate because the MPSC has concluded that there are no avoided costs associated with free DA calls. *See* Brief of Verizon Maryland Inc., Case No. 8921, *In the Matter of the Review by the Commission into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. § 271(c)* (Nov. 18, 2002) at 29; the applicable excerpt is attached hereto as Attachment 1. *See also* Verizon Maryland Reply Checklist Declaration, Case No. 8921, at 156-160.

<sup>2</sup> These documents have been filed by the Commission as part of Verizon's 271 application. According to Verizon's ex parte, Order No. 73010 was provided in MD-Appendix E, Vol.5, Tab 24, while Mr. Gahagan's letter was provided as Attachment 1 to the Reply Declaration of Roberts et al. Verizon 2/4/03 Ex Parte at 2.

pertaining to operator services and directory assistance. Order No. 73010 merely directed Verizon to develop and file the resale DA tariff. Order No. 73010 did not offer Verizon guidance as to the substance of that tariff, nor did it authorize Verizon to develop a tariff that would somehow compensate it for the 19.87 percent discount rate the MPSC was adopting.

Resale DA issues were considered for the first time in September 1997, approximately ten months after the MPSC's arbitration decision, when Verizon filed its proposed resale DA tariff. Shortly thereafter, on October 24, 1997, the MPSC approved that proposed tariff over the objections of interested parties. As the MPSC's letter ruling documents, the MPSC specifically approved two aspects of Verizon's proposed tariff that clearly conflict with federal law:

- The MPSC approved Verizon's proposal to deny resellers the six (6) call allowance that Verizon provides each month to its retail customers. According to the MPSC, the allowance constituted a subsidy that Verizon need not extend to its competitors.
- The MPSC approved Verizon's proposal to charge resellers a non-discounted rate for residential DA service, although the MPSC reduced Verizon's proposed per-call rate from \$0.3645 to \$0.25. *See* Bell Atlantic-MD Transmittal No. 1025 and proposed Section 7A (Sept. 2, 1997), attached hereto as Attachment 2. The MPSC premised this aspect of its decision on two findings: (1) that the residential DA rate was below cost; and (2) that it was appropriate to set the avoided costs at zero because "there is no information on the record regarding the breakdown of the underlying costs" and, therefore, "avoided costs either do not exist or are indeterminable."<sup>3</sup>

The unambiguous language of the MPSC's October 24, 1997 letter ruling affirms that the MPSC's decision to reject both a resale DA call allowance and a wholesale per-call DA rate was predicated on its unwillingness to require Verizon to "subsidize" its competitors. Despite clear guidance from the Commission, the MPSC expressly rejected the notion that below-cost services must be provided at a wholesale discount. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 at ¶ 956 (1996) (subsequent history omitted) ("The resale pricing standard gives the end user the benefit of an implicit subsidy in the case of below-cost service, whether the end-user is served by the incumbent or by a reseller, just as it continues to take the contribution if the service is priced above cost."). Nearly four years later, the MPSC reiterated

---

<sup>3</sup> The MPSC's statement appears to conflict with Verizon's assertion that it provided the Maryland "PSC and the other parties in the Maryland cost proceeding" with its directory assistance expenses. Verizon 2/11/03 Ex Parte at 2.

its unwillingness to require Verizon to resell below-cost services to its competitors. *See* Letter of Donald P. Eveleth to Glenn S. Richards (August 7, 2001), attached hereto as Attachment 3. In an MPSC August 7, 2001 letter ruling, the MPSC rejected a request to reexamine the DA call allowance issue. The petitioner, the MPSC concluded, “offers no argument to counter the Commission’s previous conclusion that absent any avoided costs, a wholesale discount would be inappropriate as a matter of law.” *Id.* at 1. Reexamination was unnecessary, the MPSC added, because it would be “anti-competitive and unfair” for Verizon to “subsidize” its competitors’ compliance with Maryland law. *Id.* at 2.

Significantly, neither the MPSC’s October 24, 1997 letter ruling nor its August 7, 2001 affirmation of that ruling even hints at Verizon’s convoluted new argument: that the wholesale discount for DA service was already provided in the form of the 19.87 percent wholesale discount applicable to all resellers. Verizon 2/4/03 Ex Parte at 3. Nor can Verizon construct this rationale from either the staff report or AT&T’s brief in Case No. 8731, excerpts from which it attached to its February 11, 2003 ex parte. Indeed, although neither document is dispositive as to the MPSC’s reasoning, the staff report suggests that the MPSC adopted the single discount rate (albeit reduced from the proposed 20.48 percent rate) because it was comfortable following the Commission’s guidelines. *See* Verizon 2/11/03 Ex Parte, Attachment 4 at 25-26 and 28 (staff suggested the two-tier discount structure only in light of the stay then in effect regarding the Commission’s rules, 47 C.F.R. § 51.601-611; “[s]ince the guidelines in the FCC Order were not used, Staff derived two wholesale discounts”).

Verizon caps its revisionist history with the claim that no carrier challenged the legality of “that decision” – presumably the tariff approval – in court. Verizon 2/4/03 Ex Parte at 2. Verizon apparently fails to recall that subsequent to the MPSC tariff approval MCI filed for declaratory and injunctive relief in the United States District Court for the District of Maryland. In its complaint, MCI requested a (1) a ruling that the actions of the five MPSC commissioners in approving Verizon’s resale DA tariff violated the 1996 Act; and (2) a permanent injunction that would prohibit the MPSC commissioners from accepting a Verizon tariff that did not include a wholesale rate of \$0.00 per call for the first six (6) residential DA calls per month. *See MCI Telecommunications Corp. v. H. Russell Frisby, Jr. et al. and Bell Atlantic-Maryland Inc.*, 998 F.Supp. 625 (D. MD 1998) (Case dismissed on the Court’s finding that Congress intended § 251(c)(4)(B) and § 252(d)(3) to be enforced against the state only in an action brought under § 252(e)(6), not through an action based on *Ex parte Young*).

### ***Verizon’s smokescreen cannot obscure its statutory noncompliance***

Item 14 of the Competitive Checklist requires that Verizon demonstrate that “[t]elecommunications services are available for resale in accordance with the requirement of sections 251(c)(4) and 252(d)(3).” 47 U.S.C. § 271(c)(2)(B)(xiv).

Under Section 251(c)(4), Verizon must “offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.” Thus, to the extent Verizon provides a service to its own retail customers, it must provide that same service to resellers. *See* 47 C.F.R. § 51.603(b) (“A LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users”). Section 252(d)(3) establishes an avoided cost methodology for determining the wholesale rates of resold services.

Verizon does not assert that its DA tariff complies with both Sections 251(c)(4) and 252(d)(3). Instead, Verizon fabricates a smokescreen, arguing that it satisfies its resale duties once “differences in rate structure are take into account.” Verizon even asserts that resellers using its residential DA service “are actually better off” with the current single discount/tariff arrangement – better off, that is, so long as the customer makes only two (2) DA calls per month, not the six (6) calls the MPSC guarantees. Verizon 2/4/03 Ex Parte at 3, 4. Verizon’s arguments are no substitute for statutory compliance.

As noted, the MPSC delegated to Verizon the duty to develop and file a resale DA tariff. It was Verizon – not the MPSC – that decided to develop and propose a “resale” tariff that not only included a retail rate but affirmatively denied resellers the call allowance provided to retail customers. In light of Verizon’s responsibility in devising that tariff, the Commission should not allow Verizon to hide behind real or imaginary state action that purports to justify it. Ultimately, whatever action the MPSC may have taken is irrelevant with respect to a resale tariff that, on its face, violates federal law. Verizon has always had the option of submitting a revised tariff that complies with federal law; it should not now be rewarded because it chose not to do so.

Verizon’s “analysis” of the “what-ifs” had the MPSC adopted a two-tier discount structure is completely irrelevant, as are its claims that the average residential consumer uses only two (2) DA calls per month. The MPSC did *not* adopt the two-tier discount structure nor is it currently pending before the MPSC. As for DA usage, aside from the fact that the data is questionable,<sup>4</sup> it is significant only if the Commission agrees with Verizon that resellers are

---

<sup>4</sup> For example, according to Verizon, the database from which the data was obtained records only *billed* DA calls, not free calls. *See* Verizon 2/11/03 Ex Parte at 2. Further, because the data apparently does not segregate DA calls made by Verizon retail customers from DA calls made by customers of prepaid local service, it offers no meaningful basis upon which to make conclusions regarding the impact of the foregone call allowance on NALA/PCA members.

“better off” as a result of Verizon’s refusal to resell its retail service.<sup>5</sup> There is no basis in federal law for the Commission to accept Verizon’s end-run around its statutory obligations. Verizon’s hypotheticals and assumptions merely divert Commission attention and resources from Verizon’s actual practices and the illegality of its current resale DA tariff.

Verizon’s arguments notwithstanding, nothing in the 1996 Act authorizes Verizon to violate federal law because it has determined that resellers are “better off” with its violation. Simply put, federal law obligates Verizon to resell its retail service at a wholesale discount. If Verizon chooses not to do so, it fails to satisfy the Competitive Checklist. So long as items on the Competitive Checklist remains unsatisfied, Section 271 relief is inappropriate and unwarranted.

***The MPSC has bundled the DA call allowance with local service***

Finally, Verizon states that basic residential rates have two components: the line rate and the usage rate. *See* Verizon 2/4/03 Ex Parte at 3. According to Verizon, these two components “have to be viewed in combination because under the tariff, residential dial tone lines are available *only in conjunction with* a local calling service monthly usage option except for economy lines. *Id.*; emphasis in original. In fact, Verizon’s basic residential rate has a third component: directory assistance. To the extent the MPSC obligates local carriers to provide residential local service customers with six (6) free DA calls each month, local residential service is necessarily offered *in conjunction with* the first six (6) DA calls a customer makes each month.

By mandating that local carriers provide their customers with a free monthly DA call allowance, the MPSC has created a bundled local service offering that ensures that local service customers receive both local usage and some minimum level of DA service each month. Thus, the purchase of resold local service should include six (6) DA calls each month, at least until such time as the MPSC revises its residential DA call allowance requirements. Verizon’s resale DA tariff should apply only to those DA calls that exceed this allowance.

Verizon’s insistence on retaining a patently unlawful resale tariff baffles NALA/PCA. To the extent Verizon is concerned about the revenue impact associated with extending the DA call allowance to resellers, it should petition the MPSC to reduce the call allowance from six (6) to the two (2) mandated by state law, an approach that NALA/PCA would support. *See* PUC § 8-202(a) of the Maryland Public Utility Companies Article, a copy of which was

---

<sup>5</sup> Indeed, if residential consumers average only two (2) DA calls per month – well below the monthly six (6) call allowance – then the MPSC’s concerns regarding Verizon’s subsidization of its competitors would appear unfounded.

# ShawPittman LLP

Marlene H. Dortch


February 12, 2003

Page 7

attached to Verizon's February 11, 2003 ex parte. NALA/PCA can only conclude that Verizon's continuing intransigence on this issue is nothing more than a manifestation of its general unwillingness to deal with competitors, particularly resellers, in a fair and nondiscriminatory manner.

Please feel free to contact the undersigned should you have any questions regarding this ex parte.

Sincerely,



Glenn S. Richards

Susan M. Hafeli

## Attachments

cc: G. Cohen, Federal Communications Commission  
G. Gooke, Federal Communications Commission  
G. Remondino, Federal Communications Commission  
V. Schlesinger, Federal Communications Commission  
D. Laub, Maryland Public Service Commission  
J. Nichols, U.S. Department of Justice  
A. Berkowitz, Verizon

**ATTACHMENT 1**

**Excerpt from Brief of Verizon Maryland Inc.**

**Case No. 8921**

***In the Matter of the Review by the Commission into  
Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. § 271(c)  
(Nov. 18, 2002)***



STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE INQUIRY )  
INTO VERIZON MARYLAND INC.'S )  
COMPLIANCE WITH THE CONDITIONS ) Case No. 8921  
SET FORTH IN 47 U.S.C. § 271(c) )

BRIEF OF  
VERIZON MARYLAND INC.

David A. Hill  
Deborah Haraldson  
Michael D. Lowe  
William B. Peterson  
William D. Smith  
Verizon Maryland Inc.  
1 East Pratt Street, 8E  
Baltimore, Maryland 21202  
(410) 393-7725

ATTORNEYS FOR  
VERIZON MARYLAND INC.

November 18, 2002

## TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY .....	1
II.	VERIZON MD SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN MARYLAND .....	4
A.	INTERCONNECTION (Checklist Item 1).....	6
1.	Interconnection Generally.....	6
2.	Interconnection Trunking.....	6
3.	Collocation.....	10
B.	NONDISCRIMINATORY ACCESS TO NETWORK ELEMENTS (Checklist Item 2).....	12
1.	Methods of Access to UNEs.....	13
2.	Access to UNE Combinations .....	14
3.	Verizon MD Offers UNEs At TELRIC Rates Set By The Commission. ..	14
C.	POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY (Checklist Item 3) ....	15
D.	UNBUNDLED LOCAL LOOPS (Checklist Item 4).....	16
1.	Stand-Alone Voice Grade Loops .....	17
2.	xDSL Loops .....	18
3.	Line Sharing and Line Splitting.....	19
4.	Hot Cut Loops.....	20
5.	High Capacity Loops .....	20
6.	Enhanced Extended Links (“EELs”) .....	22
E.	UNBUNDLED LOCAL TRANSPORT (Checklist Item 5).....	23
F.	UNBUNDLED LOCAL SWITCHING (Checklist Item 6).....	25
G.	911/E911 AND DIRECTORY ASSISTANCE/OPERATOR SERVICES (Checklist Item 7) .....	26
H.	WHITE PAGE DIRECTORY LISTINGS (Checklist Item 8) .....	26
I.	ACCESS TO TELEPHONE NUMBERS (Checklist Item 9).....	27
J.	ACCESS TO DATABASES AND SIGNALING (Checklist Item 10).....	27
K.	LOCAL NUMBER PORTABILITY (Checklist Item 11).....	28
L.	LOCAL DIALING PARITY (Checklist Item 12).....	28
M.	RECIPROCAL COMPENSATION (Checklist Item 13) .....	29
N.	RESALE (Checklist Item 14) .....	29
III.	OPERATIONS SUPPORT SYSTEMS .....	30
A.	Verizon MD’s OSS Meet the Requirements of Section 271 .....	30
B.	Pre-Ordering .....	31

C.	Ordering.....	33
1.	Flow Through.....	33
2.	Manually Processed Orders .....	34
3.	Confirmations, Reject Notices, and Jeopardies .....	35
4.	Completion Notices .....	35
D.	Provisioning.....	36
E.	Maintenance and Repair .....	36
F.	Billing .....	37
G.	Verizon MD’s OSS Change Management and CLEC Support Have Repeatedly Been Reviewed and Approved by the FCC.....	41
1.	OSS Change Management.....	41
2.	Training and Assistance for CLECs .....	42
3.	Test Environment.....	42
IV.	VERIZON MD’S PERFORMANCE MEASUREMENTS and pap provide evidence of compliance with the checklist and assurance that The local market will remain open to competition. ....	43
V.	VERIZON MD IS ELIGIBLE TO SEEK INTERLATA RELIEF UNDER SECTION 271(c)(1)(A) – “Track A” .....	45
VI.	VERIZON MD IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 272.....	48
VII.	APPROVING VERIZON MD’S APPLICATION IS IN THE PUBLIC INTEREST .....	48
VIII.	CONCLUSION.....	50

**M. RECIPROCAL COMPENSATION (Checklist Item 13)**

Section 271 (c)(2)(B)(xiii) requires Verizon MD to offer reciprocal compensation arrangements as required by the 1996 Act.<sup>53</sup> No party has contested Verizon MD's showing of how it meets this checklist item, *see* Checklist Decl. ¶¶ 330-331.

**N. RESALE (Checklist Item 14)**

Verizon MD has demonstrated that it fully complies with the resale requirements of the 1996 Act. *See* Checklist Decl. ¶¶ 332-349. Verizon MD offers for resale, at the wholesale rates established by the Commission, all of the telecommunications services, including DSL services, it provides at retail to subscribers that are not telecommunications carriers. Other carriers can and do purchase these services to compete directly with Verizon MD. As of January 2002, there were approximately 126,000 resold lines in service in Maryland, of which approximately 78,000 were business lines and approximately 48,000 were residential. *See id.* ¶ 336.

Metro Tel raised the only challenge to Verizon MD's compliance with this checklist item, arguing that Verizon MD violates its resale obligations because it refuses to provide directory assistance to Metro Tel at no cost. This Commission has already considered and rejected this argument, concluding that, because there are no avoided costs associated with the free directory assistance calls that Verizon MD provides to its retail customers "a wholesale discount would be inappropriate as a matter of law."<sup>54</sup> Moreover, this Commission found that Metro Tel's position is "anti-competitive and unfair," as it would require Verizon MD to "subsidize" Metro Tel's "compliance with Maryland law." *Id.* Accordingly, this Commission should find that Verizon MD has satisfied Checklist Item 14.

---

<sup>53</sup> *See* Checklist Decl. ¶ 329. *See also* *Virginia Order*, Appendix C, ¶ 66.

<sup>54</sup> August 7, 2001, Letter from Donald P. Eveleth, Assistant Executive Secretary, Maryland PSC to Metro Teleconnect Companies, re: Metro Teleconnect Companies, Inc.'s Petition for Reexamination of Directory Assistance Call Allowances for Resellers ("*August 7, 2001 Letter*") and October 24, 1997, Letter from Maryland PSC to Bell Atlantic – Maryland, Inc., re: Order No. 73010 in Case No. 8731, at p. 2.

**ATTACHMENT 2**

**Bell Atlantic –MD Transmittal No. 1025 (Section 7A only)  
(September 2, 1997)**

Bell Atlantic - Maryland, Inc.  
Constellation Place  
1 East Pratt Street, Eighth Floor, East Wing  
Baltimore, Maryland 21202  
410 393-3650  
FAX 410 393-7915

Mary R. Vaden  
Director - Regulatory Affairs

September 2, 1997

Transmittal No. 1025

D. P. Gahagan, Executive Secretary  
Public Service Commission of Maryland  
William Donald Schaefer Tower  
6 St. Paul Street  
Baltimore, Maryland 21202-6806

Dear Mr. Gahagan,

Herewith, for filing with the Commission in accordance with Public Service Commission Law, are an original and fourteen copies of the following tariff pages:

GENERAL REGULATIONS TARIFF, P.S.C. -Md.-No. 201

Section 7A, Original Page 1

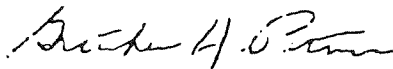
Section 7B, Original Page 1

Original Page 2

Section 7C, Original Page 1

This filing provides for the establishment of regulations, rates and charges for Resale Directory Assistance and Operator Services in compliance with Order No. 73010 in Case No. 8731 issued November 8, 1996.

Very truly yours,



For Director  
Regulatory Affairs

Description of Filing

This filing provides for the establishment of regulations, rates and charges for Resale Directory Assistance and Operator Services in compliance with Order No. 73010 in Case No. 8731 issued November 8, 1996.

In accordance with the Order, Bell Atlantic-branded Directory Assistance and Operator Services will be available to resellers under a separate tariff.

Proposed Tariff Changes

Tariff P.S.C.-Md.-No. 201

Section 7A

Original Page 1

RESALE DIRECTORY ASSISTANCE SERVICE

A. GENERAL

The Telephone Company furnishes Directory Assistance Service whereby a customer may request assistance in determining telephone numbers.

B. REGULATIONS

1. Effective when facilities are generally available, the rates set forth following apply when a customer requests listed telephone numbers in the same local exchange area or within the same NPA or corresponding overlay NPAs.
2. For calls placed through a Telephone Company operator, the Operator-assisted Local Call charge specified in Section 7B of this Tariff applies in addition to the charge for Directory Assistance Service Calls specified in C. following. The Operator-assisted Local Call charge will not apply in the following cases:
  - a. to reach Directory Assistance Service through a Telephone Company operator when attempts by the caller to direct dial such a call cannot be completed;
  - b. to only record the originating telephone number where no automatic recording equipment is available.
3. The customer may request a maximum of two telephone numbers per call to Directory Assistance Service.
4. There is no call allowance with resold Directory Assistance Service.
5. A reseller has the option of providing branded or unbranded Directory Assistance Service to its customers at an additional cost.

C. RATES

Directory Assistance Service Calls, per call . . . . . \$ .3645



**ATTACHMENT 3**

**Letter of Donald P. Eveleth to Glenn S. Richards  
(August 7, 2001)**

CATHERINE I. RILEY  
CHAIRMANCLAUDE M. LIGON  
J. JOSEPH CURRAN, III  
GAIL C. McDONALD  
RONALD A. GUNSFELECIA L. GREER  
EXECUTIVE SECRETARYGREGORY V. CARMEAN  
EXECUTIVE DIRECTOR

## PUBLIC SERVICE COMMISSION

ML#s 76299, 76910, 77688 and 78112

August 7, 2001

Glenn S. Richards, Esq.  
Colette M. Capretz, Esq.  
ShawPittman  
2300 N Street, NW  
Washington, DC. 20037-1128

**Re: Metro Teleconnect Companies, Inc.'s Petition for Reexamination of  
Directory Assistance Call Allowances for Resellers**

Dear Mr. Richards and Ms. Capretz:

On February 5, 2001, Metro Teleconnect Companies, Inc. ("Metro") filed a Petition for Reexamination ("Petition") with the Commission. On March 26, 2001, Metro filed additional comments. In its Petition, Metro requested the Commission to reexamine its 1997 decision whereby the Commission declined to require Verizon Maryland Inc. ("Verizon") to provide resellers with six free directory assistance calls. Metro indicated that Verizon's pricing structure is: (1) in violation of the resale provisions of Telecommunications Act of 1996 ("the Act"); (2) in violation of the nondiscrimination provisions of the Act; (3) is not a subsidy to competitors; and that (4) Verizon currently provides free directory assistance calls to Metro in five other states.

On May 14, 2001, Verizon filed its Response to Metro's Petition. Additional information was filed by Verizon on June 8, 2001. Verizon contended that Metro provides no basis to reconsider the Commission's 1997 decision.

After reviewing this matter, the Commission hereby denies Metro's Petition for Reexamination. The Commission disagrees with Metro's contention that the failure to require Verizon to provide a free directory assistance allowance to resellers violates the Act. Metro offers no argument to counter the Commission's previous conclusion that absent any avoided costs, a wholesale discount would be inappropriate as a matter of law.

Essentially, Metro argues that Verizon should subsidize its compliance with Maryland law. Such a requirement would be anti-competitive and unfair. The Commission therefore concludes that a reexamination of the directory assistance allowance is unnecessary.

By Direction of the Commission,

A handwritten signature in black ink, appearing to read "Donald P. Eveleth". The signature is fluid and cursive, with the first name "Donald" being the most prominent.

Donald P. Eveleth  
Assistant Executive Secretary

FLG/rmw

Attachment

cc: David A. Hill, Esquire  
Carlos Candelario, Assistant Director, Telecommunications Division